REMARKS

The Office Action dated July 18, 2007, has been received and carefully noted. The above amendments to the specification and claims, and the following remarks, are submitted as a full and complete response thereto.

Claims 1, 4-11, 13, and 19-41 are currently pending in the application, of which claims 1, 13, 19, and 41 are independent claims. Claim 13 has been amended to more particularly point out and distinctly claim the invention. No new matter has been added. Claims 1, 4-11, 13, and 19-41 are respectfully submitted for consideration.

The title of the application was objected to as not being descriptive. The Examiner suggested that the title be changed to "COMMUNICATION SYSTEM FOR CHARGING A COMMUNICATION SESSION." This proposal has been essentially adopted in the amendment to the specification, above, in which the title has been amended to read: "COMMUNICATION SYSTEM FOR CHARGING FOR A COMMUNICATION SESSION," for grammatical reasons. Applicant notes that the title does not limit the claims. Withdrawal of the objection is respectfully requested.

Claims 1 and 4-10 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,785,535 of Lucidarme et al. ("Lucidarme") in view of Fransdonk. The Office Action took the position that Lucidarme discloses many of the features of the claims, and cited Fransdonk to remedy various deficiencies of Lucidarme. Applicant respectfully traverses this rejection.

Claim 1, upon which claims 4-11 depend, is directed to a communications system including a first communications node. The communication system also includes a second communications node. The communication system further includes a plurality of charging nodes. The first node is configured to send charging information to at least one of the charging nodes. The second node configured to send charging information to at least one of the charging nodes. The first memory configured to store information identifying one of the charging nodes as being a default charging node for a communication session. The first node and the second node are configured to send respective charging information for the session to the default charging node using the information stored in the first memory, when the default charging node is available.

Certain embodiments of the present invention advantageously ensure that, in a communications system, for the same subscriber, session or PDP context, charging information (CDRs) generated by different communication nodes (*e.g.* a GGSN and an SGSN) is directed to the same charging gateway, in order to ensure that billing is accurate for each subscriber, even if a link between the communications nodes and the original charging node is broken and later restored.

Applicant respectfully submits that the combination of Lucidarme and Fransdonk fails to disclose or suggest all of the elements of any of the presently pending claims and consequently cannot provide the critical and unobvious advantages described above.

Lucidarme generally relates to a method for monitoring communications in a cellular radiocommunication system, and corresponding network core. Lucidarme is not

concerned with billing individual subscribers, but instead relates to the very different problem of organizing interoperation between a cellular network and WLANs such that subscribers to the cellular network may use resources of the WLAN, while ensuring that the WLAN manager is remunerated by the cellular operator for the access service it has provided. As Lucidarme discusses at column 1, lines 29-34, such cross-billing between the networks is carried out by comparing the traffic exchanged **without referring to subscribers' identities**.

In addition to failing to mention the problem of disruption to and the subsequent restoration of a link between communication nodes and a charging node, in Lucidarme the only requirement of the charging information about each roaming subscriber's system usage is that it can ultimately be collated into a total figure for use in the cross-network billing. The effectiveness of such an operation is independent of which CGF CDRs are initially sent by the GGSN and SGSN. Therefore, one of ordinary skill in the art would not be at all motivated to adapt the system disclosed in Lucidarme to arrive at the present invention.

Specifically, for example, claim 1 recites, in part: "said first memory configured to store information identifying one of said charging nodes as being a default charging node for a communication session; wherein said first node and said second node are configured to send respective charging information for said session to said default charging node using said information stored in said first memory, when said default charging node is available." Because Lucidarme relates to a very different problem, Lucidarme naturally

does not disclose the above-identified features of the present claims, as the Office Action acknowledged at page 5, first full paragraph.

The Office Action, however, took the position that Fransdonk remedies these particular deficiencies of Lucidarme. Applicant respectfully submits that Fransdonk does not remedy these deficiencies and, alternatively or additionally, that it would not have been obvious to combine Lucidarme and Fransdonk.

Fransdonk generally relates to a method and system to dynamically present a payment gateway for content distributed via a network. In the unlikely event a person of ordinary skill in the art did want to modify the system discussed in Lucidarme to ensure that billing is accurate for each subscriber to a communications system, as discussed in the present application, one of ordinary skill in the art would not look to Fransdonk for inspiration since it is in an entirely different technical field to Lucidarme, namely the field of selecting payment gateways to present to a content requestor from which the content requestor can choose one for making a payment.

A person of ordinary skill in the art at the time the invention was made would have seen upon reviewing Fransdonk that Fransdonk is not at all concerned with ensuring that different elements of charging information for a subscriber, session or PDP context are sent to the same payment gateway. This dissimilarity is emphasized by the difference in the Search Classifications on the cover of each publication. Fransdonk was classified in 726/3 and 705/79, whereas Lucidarme was classified in 455/406, 455/403, 455/408, 379/114.01, 379/126, 370/338, and 370/352.

Furthermore, this difference can be seen directly in the description of Fransdonk. In Fransdonk, when a content requestor (22) requests to buy content, a content distributor (20) sends to the requestor (22) a first ranked list of payment gateways (*e.g.* 42), including an identified preferred payment gateway, from which to choose to make a payment for the content. If the distributor (20) does not have such information to send, then it sends to the requestor (22) a second list of payment gateways, including an identified preferred payment gateway, that the distributor (20) receives from a content provider (16).

The Office Action treated the first and second nodes recited in present claim 1 to be equivalent to the provider (16) and distributor (20) in Fransdonk. However, Fransdonk does not teach that either of the provider (16) or distributor (20) sends charging information to a payment gateway (*e.g.* 42), as required of the first and second nodes in, for example, claim 1. Even if payment information is considered to be transmitted from the requestor (22) to the payment gateway (42) via the distributor (20) (not admitted), the payment gateway (42) used for a transaction is not necessarily that originally indicated to the requestor (22) as a default or preferred payment gateway.

Instead, in Fransdonk, **the requestor (22) chooses** which of the presented payment gateways to use to make payment for the content, as explained at column 43, lines 11-22. Alternatively, if the requestor (22) is considered to be equivalent to one of the nodes of claim 1, Fransdonk still fails to disclose that node sending payment information necessarily to the payment gateway indicated as the default gateway.

Therefore, even if one of ordinary skill in the art were to combine the teachings of Lucidarme and Fransdonk, they still would not reach the present invention as recited in the claims.

In other words, Lucidarme and Fransdonk, whether considered alone or in combination fail to disclose or suggest "said first memory configured to store information identifying one of said charging nodes as being a default charging node for a communication session; wherein said first node and said second node are configured to send respective charging information for said session to said default charging node using said information stored in said first memory, when said default charging node is available," (emphasis added) as recited in claim 1.

More specifically, claim 1 requires a first node and a second node to send respective charging information for a session to a default charging node, in order to aid collation of charging information for a session, recited in claim 1 as, "said first node and said second node are configured to send respective charging information for said session to said default charging node using said information stored in said first memory" and "said first node configured to send charging information to at least one of said charging nodes, said second node configured to send charging information to at least one of said charging nodes."

In contrast, in Fransdonk only the single message [sent from the content requestor (22) to the selected payment gateway (42)] could be considered charging information (not

admitted), that being information used in charging the requestor for the content they have requested.

It would not make sense to modify the system in Fransdonk such that two respective sets of charging information are sent from two different nodes for the same session/content. If a second requestor were to request content from the provider (16), there would be no reason for the charging information sent from the second requestor to a payment gateway to be collated with the abovementioned charging information, since it would be considered a separate transaction. Thus, it would not be important for each requestor to send its respective payment information to the same payment gateway, as required by claim 1.

Furthermore, requiring a second requestor to use a payment gateway that was selected by a first requestor for a different transaction would remove the second requestor's opportunity to choose which payment gateway to use, which is a key feature of the system in Fransdonk. Thus, one of ordinary skill in the art would not modify the system in Fransdonk to require this.

MPEP 2143.01(V) states "THE PROPOSED MODIFICATION CANNOT RENDER THE PRIOR ART UNSATISFACTORY FOR ITS INTENDED PURPOSE," (Capital letters in original.) and explains that "If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification." Moreover, MPEP 2145(III) states that "the claimed combination cannot change the principle of operation of

the primary reference or render the reference inoperable for its intended purpose." The proposed modification would render the reference Fransdonk inoperable for its intended purpose by removing the second requestor's ability to choose.

Moreover, any charging information that is sent to the payment gateway (42) for a transaction in Fransdonk originates at the content requestor (22). If it were to be considered that such information is sent to the payment gateway (42) via the distributor (20) (not admitted), then it must also be considered that only the distributor (20) ultimately sends charging information to the payment gateway. Therefore, taking that interpretation, Fransdonk lacks the feature required in claim 1 of two nodes (a first node **and** a second node) sending their respective charging information to a charging node.

Thus, under any reasonable interpretation of the references, taken as a whole and in combination (though it is denied that such a combination is proper), Lucidarme and Fransdonk fail to disclose or suggest, "said first memory configured to store information identifying one of said charging nodes as being a default charging node for a communication session; wherein said first node and said second node are configured to send respective charging information for said session to said default charging node using said information stored in said first memory, when said default charging node is available," (emphasis added) as recited in claim 1.

Claims 4-10 depend from and further limit claim 1. Each of claims 4-10, therefore, recites subject matter that is neither disclosed nor suggested in the combination

of Lucidarme and Fransdonk. Thus, it is respectfully requested that the rejection of each of claims 1 and 4-10 be withdrawn.

Claim 11 was rejected under 35 U.S.C. 103(a) as being unpatentable over Lucidarme in view of Fransdonk and further in view of U.S. Patent Application Publication No. 2005/0047378 of Wuschke et al. ("Wuschke"). Applicant respectfully traverses this rejection.

Wuschke itself is not proper prior art under 35 U.S.C. 102(e), because Wuschke is a U.S. patent publication based on an international application filed after November 29, 2000, whose corresponding international publication was not in English. Wuschke is not prior art under any other section of 35 U.S.C. 102, because it was published on March 3, 2005, after the U.S. filing of the present application on November 6, 2003. Thus, the rejection is improper and must be withdrawn.

Nevertheless, for the Examiner's reference, it is noted that there may be publications of related applications to Wuschke, such as publications of DE 10130539.7. In any event, it is respectfully submitted that Wuschke fails to remedy the above-identified deficiencies of Lucidarme and Fransdonk with respect to claim 1, and claim 11 depends from and further limits claim 1. Thus, claim 11 recites subject matter that is neither disclosed nor suggested in the combination of Lucidarme, Fransdonk, and Wuschke, and it is respectfully requested that the rejection of claim 11 be withdrawn.

Claims 13, 19, and 41 were rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 7,237,255 of Fransdonk ("Fransdonk"). Applicant respectfully

submits that the claims recite subject matter that is neither disclosed nor suggested in the cited art.

Claim 13, upon which claims 21-30 depend, is directed to a method including storing, in a first memory, information identifying one of a plurality of charging nodes associated with a communication session of a communications system as a default charging node to which a first communications node is to send charging information for the session. The method also includes sending the charging information for the session from the first communications node to the default charging node when the default charging node is available. The method further includes billing in the communications system based on the charging information.

Claim 19, upon which claims 20 and 31-40 depend, is directed to a gateway communication node including a memory configured to store information identifying a default charging node associated with a communication session to which the node is to send charging information for the session. The node is configured to send charging information for the session to the default charging node when the default charging node is available.

Claim 41 is directed to a node including means for storing information identifying a default charging node associated with a communication session to which the node is to send charging information for the session. The node also includes means for sending the charging information for the session to the default charging node when the default charging node is available.

Applicant respectfully submits that Fransdonk fails to disclose or suggest all of the elements any of the presently pending claims.

Fransdonk is discussed above. Likewise, as discussed above, in certain embodiments of the present invention, CDRs are always sent to the charging node that is identified as the default charging node when it is available. In Fransdonk, on the other hand, any payment information is sent to the payment gateway that is **selected by a content requestor (22)** from a list provided to the requestor from a distributor (20). Therefore, Applicant respectfully submits that Fransdonk does not disclose the features found in claim 13 of, "storing in a first memory information identifying one of a plurality of charging nodes associated with a communication session ... as a default charging node to which a first communications node is to send charging information for said session; and sending said charging information ... when said default charging node is available."

Similarly, Applicant respectfully submits that Fransdonk does not disclose the features found in each of claims 19 and 41 of a node having "a memory configured to store information identifying a default charging node associated with a communication session to which said node is to send charging information for said session ... when said default charging node is available." Therefore, Applicant respectfully submits that claims 13, 19, and 41 each recite subject matter that is neither disclosed nor suggested in Fransdonk.

Much of rationale explaining how Fransdonk does not disclose such features can be seen from the discussion above with respect to claim 1. Additionally, it is respectfully

submitted that it would not have been obvious to modify Fransdonk to arrive at the present invention.

It does not make any sense for the system described in Fransdonk to be modified such that payment information is sent "to said default charging node **when available**" (emphasis added) as recited in, for example, claim 13. This is because, in Fransdonk, a payment gateway is not selected for use based on its availability but instead it is chosen on the basis of a content requestor's preference. If the content requestor's selection of payment gateway were ignored, and instead a default payment gateway selected by the provider (16) or the distributor (20) was automatically used to process the content requestor's payment when it was available, the payment selection interface (*e.g.* as shown in Fig. 26 of Fransdonk) would be rendered redundant and the aim of Fransdonk to allow requestors to buy content without having to pay content providers directly (which would require supplying confidential information to the provider) would be bypassed. Therefore, because a necessary modification (to make Fransdonk begin to correspond to what is claimed) would render Fransdonk unsatisfactory for its intended purpose, as discussed above, such a modification is *per se* non-obvious.

Furthermore, incorporation of a CGF entity into a GGSN or SGSN, as discussed in Lucidarme, does not imply that the unit then has a memory in the sense of the memory in the presently pending claims, since it would be used to store filtered, merged and pre-processed information prior to sending it to the billing system 35. At no point within Lucidarme is a node disclosed with a memory configured to store information identifying

a default charging node associated with a communication session to which a first communications node is to send charging information for said session. Therefore, even if one of ordinary skill in the art considered Lucidarme in combination with Fransdonk, such a person would still not arrive at the present invention as recited in the presently pending claims.

Moreover, Wuschke discloses how a GGSN produces a charging ID for a particular PDP context. The charging ID is forwarded to the corresponding SGSN so as to ensure that CDRs from both the GGSN and the SGSN are sent to the correct CGF. This process is also described in the introduction to the description of the present application (see page 3, lines 6-11, of the present application).

There is a distinct difference between a default charging node and the active charging node. As recited in the claims, CDRs are always sent to the default charging node "when it is available." In Wuschke, in contrast, CDRs are sent to an active charging node. Wuschke's procedure results in the problem described in the present application, in which a charging node becomes unavailable, resulting in a different second charging node becoming the active node and, subsequently, the first charging node becomes available. In such a case CDRs continue to be sent to the second charging node as it is still the active node, despite the fact that the original charging node has become available again.

Wuschke does not disclose a node with a memory that stores information identifying a default charging node associated with a communication session to which a

first communications node is to send charging information for said session. Therefore, even if on of ordinary skill in the art considered Wuschke in combination with Fransdonk, such a person would still not arrive at the present invention as recited in the presently pending claims.

Thus, Applicant respectfully submits that claims 13, 19, and 41 recite subject matter that is non-obvious with respect to Fransdonk, even if it were to be combined with either (or both) of Lucidarme or Wuschke. It is, therefore, respectfully requested that the rejection of claims 13, 19, and 41 be withdrawn.

Claims 20-40 were rejected under 35 U.S.C. 103(a) as being unpatentable over Fransdonk in view of Wuschke. This rejection is traversed for the reasons discussed above, namely that Wuschke is not prior art, and that it would not have been obvious to modify Fransdonk to arrive at the subject matter of claims 13 and/or 19, from which claims 20-40 respectively depend. Thus, it is respectfully requested that the rejection of claims 20-40 be withdrawn.

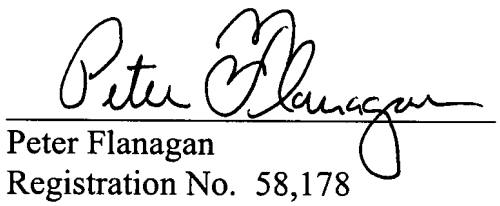
For the reasons set forth above, it is respectfully submitted that each of claims 1, 4-11, 13, and 19-41 recites subject matter that is neither disclosed nor suggested in the cited art. It is, therefore, respectfully requested that all of claims 1, 4-11, 13, and 19-41 be allowed, and that this application be passed to issuance.

If, for any reason, the Examiner determines that the application is not now in condition for allowance, it is respectfully requested that the Examiner contact, by

telephone, Applicant's undersigned attorney at the indicated telephone number to arrange for an interview to expedite the disposition of this application.

In the event this paper is not being timely filed, Applicant respectfully petitions for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account 50-2222.

Respectfully submitted,



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